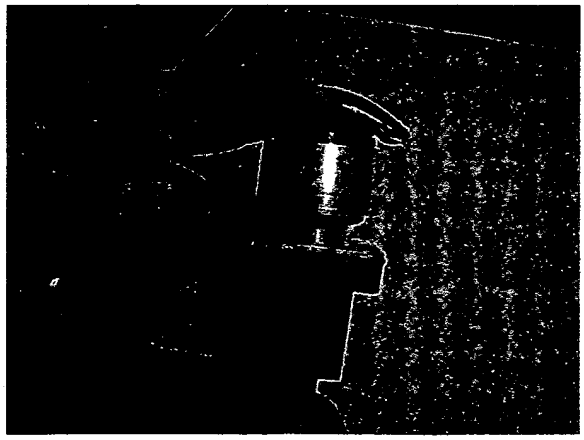
REMARKS

The Examiner has rejected claims 1 and 2 as being anticipated by Gallagher. Although the claims of this request for continued examination (RCE) have been amended, they still address basically the same subject matter, and thus a discussion of Gallagher will be presented in the following paragraphs.

Gallagher teaches a mechanism for unlocking and locking the trigger guard of the handgun using a device into which the trigger guard may slide. The release button (25) of Gallagher is a button that is mounted on the exterior of the holster. It is surrounded by a stovepipe (70), which serves to protect the button from side impact and to direct its motion into a straight up and down alignment. The stovepipe (70) is really nothing more than a protective shroud, much like a pushbutton electrical switch on machinery control panels or the emergency stop button of many elevators. An example of such a switch protector is seen below. The stovepipe (70) is discussed in column 4, lines 1-4 of Gallagher.



In column 4, lines 34-41, Gallagher explain how the wearer would release the lock mechanism and withdraw the handgun. Of particular importance is "the wearer...extends his right forefinger over handle 11A and side 12A in the direction..." In this passage, Gallagher teaches that the release button (25) is on the outside of the holster. Therefore this button is

accessible to anyone or anything that gets near the outer wall (12A) of the holster. For example, an assailant could easily slap or otherwise depress the button (25) while grabbing the handle (11A) of the handgun. Similarly, the user could accidentally depress the button when entering or exiting a vehicle or brushing against any semi-rigid structure. Since this passage substantiates that the release button (25) is on the outside of the holster body, it also explains the need for stovepipe (70) to protect the button from being accidentally damaged or sheered off during normal activities.

In Column 6, lines 1-22, Gallagher teaches of a second embodiment whereby a shorter stovepipe (70A) and "finger rest" (25A) are hidden into a small pocket (113) on the inside of the outer wall (112A). The remaining surface of side wall (112A) is a "thin" portion (114) that is pliable to the touch and allows the user to actuate release button (25A) through its flexure. This embodiment is effectively a "dust cover" for the release button and stovepipe shroud, very similar to the "easy clean" pushbuttons found on modern microwave ovens and the like. While this section may not seem relevant, it further substantiates that Gallagher's release mechanism is exposed to the entire world on the outside of the holster, facing away from the user's body. As such, access to the release mechanism is not secured to only the user, and does not employ a finger tube into which a user must insert his finger in order to release the handgun.

The Examiner notes that finger tube 14 or 77 of Gallagher surround the releasing means, and therefore anticipate the applicant's claims 1 and 2. Although the claims have been amended, many of the claims still claim a finger tube. As disclosed in the original application and claimed in the amended claims, what is referred to by a finger tube in this invention is a structure into which a user inserts his/her finger. Gallagher, by contrast, teaches just the opposite, with the button being available to the user's finger or to an attacker's finger or to even being depressed by features in the environment.

The finger tube of the present invention adds important security features to the security holster of the present invention. The finger tube of the invention is made so that the user may

comfortably insert a finger, usually an index finger, into the finger tube and press the release tab, thus releasing the handgun from the holster. Such a finger tube makes it much more difficult for someone standing in front of, to the side of, or behind the user to insert his/her finger into the same tube. In the case that such an attempt were made, the finger tube itself serves as a security feature because in a fight for access to the weapon, the wearer of the security holster can block access to the finger tube with his hand, or could move his hips and entire body to protect entry into the finger tube. If an assailant's finger were inserted into the finger tube, the wearer of the security holster of the present invention could still prevent the release of the handgun by spinning or rotating his/her hips.

Claims 23-21 were rejected by the Examiner under 35 USC §102(b) as being anticipated by Mauriello et al. Although the claims have been amended from those that were rejected earlier, there are many similarities and therefore a discussion of Mauriello is presented as follows.

Mauriello is a security holster that includes a slide that is pressed by the user's right thumb. The slide is connected to a device that releases a hook that is clipped into the trigger guard of a pistol. Thus, when the slide (18) is depressed, the retaining hook (26) is removed from the trigger guard (34). This allows a handgun to be removed from the holster Mauriello. The Examiner notes that, like the present invention, Mauriello includes a locking means capable of engaging, with an audible indication of locking, a handgun feature for preventing the withdrawal of the handgun, and a releasing means (22) located adjacent to and covering a trigger of the handgun for releasing the locking means by flexure of a user's index finger. The releasing means comprises an elongate release tab (18) operationally connected to a locking tab (28). Said locking means further includes a pressure switch (24).

Mauriello claims a security holster that engages a trigger guard of a handgun by use of a resilient spring with a hook end (28). Pressing a handgun into the holster causes the trigger guard to move past the hook end of the catch. To release the trigger guard for withdrawal, a user

presses, with his/her thumb, on the trigger guard release means (18). There is no indication that the device is specifically constructed to provide an audible indication of locking. Even if is assumed that any mechanical device has the probability of making a sound when used, this is not the same as a device designed to make a sound that can be heard above the sounds of traffic, people shouting and arguing, over radio sounds, siren noise, and when shots are being fired. The audible indication of the present holster is designed with this potentially noisy environment in mind.

The releasing means of Mauriello is also not located adjacent to or covering the trigger or trigger guard of the handgun. The releasing means is the button (18), which is located at the top of the holster and opposite the handle of the handgun, and which is activated by the thumb. The only thing located adjacent to the handgun is the hook that attaches to the trigger guard.

The device of Mauriello, although it has a part of the release device adjacent to the trigger guard, does not cover the trigger guard, and in any of the positions shown in Figs. 4A-4F the user could insert his/her finger into the trigger guard and accidentally pull the trigger. Any security device that uses the trigger guard by definition also has some part of the device adjacent the trigger guard. Finally, the locking means of Mauriello is not released by flexure of a user's index finger. By contrast, it is released by the user's thumb pressing down.

The Examiner will note that a more thorough search of prior art has been performed, and a listing of cited references is provided. These fall into the general categories of security holsters that secure the gun by retaining the trigger guard; security holsters that retain a handgun by use of straps, security holsters that retain a handgun through the use of electronic locks; security holsters that secure a handgun by interaction with the ejection port; and security holsters that secure a handgun by other miscellaneous mechanisms. The applicant would like to point out to the Examiner that in this more complete field of prior art, none of these holsters have a finger guard into which a user's finger is inserted in order to release the release mechanism of the security holster, nor which use the ejection port in the manner of the present invention. As

previously discussed, the finger tube feature has significant advantages for the security of the handgun and release mechanism. Additionally, very few of these security holsters utilize the ejection port in any way, and none have a movable locking tab which engages the ejection port.

Rogers, U.S. Patent No. 6,467,660, is a security holster that does utilize an ejection port. In Rogers, a biasing apparatus (25) on one side of the holster presses the handgun into contact with the opposite side of the holster. In the opposite side of the holster is a bulge in the holster inner wall which projects into the holster. This bulge extends into the ejection port of the handgun when the handgun is seated, and prevents the handgun from being withdrawn straight out of the holster. To withdraw the handgun, the ejection port obstruction is not moved, and it is not made to be movable. Instead, the handgun is rotated to a different path of withdrawal, and pulled around the immovable ejection port obstruction. This feature is different than that of the present invention, and the use of the ejection port as claimed is not anticipated by Rogers.

The security holster of Rogers includes a blocking element (49), which must be moved sideways by finger pressure on ledge (57) (Column 5, lines 50-53). Once blocking element (49) is moved sideways, then rotating hood (29) must be removed. The body member is moved out of engagement with the trigger guard of the handgun when force is applied by a middle finger of a user to the finger ledge (Column 2, lines 36-39).

When police officers are confronted in an emergency situation in which they are being attacked, shot at, or otherwise under extreme stress, studies have found that due to the excitement of the moment, fine motor skills are largely lost. The skills that remain are the basic instinctive motor pathways. In handgun training, a police officer practices countless times to reach into his handgun holster, wrap his thumb and finger around the handle and trigger guard of the handgun, sometimes with his finger resting on the slide of the weapon, and basically grab the handgun and remove it from the holster. At that moment of extreme anxiety, a requirement that a police officer remove a strap by a sweep of a thumb, remove a second strap by a sweep of a finger, twist the handgun to a certain angle, move the angle of withdrawal to a prescribed range, press

something with a finger, and lift the handgun out of the holster generally cannot be accomplished by an officer. Such a security holster is termed "a draw-proof holster." This is not a desirable condition.

In such a situation, an officer's concentration and fine motor skills for such activities are gone, and thus all he/she can do is reach in, grab something, and pull it out. The holster of the present invention addresses this reality by eliminating extraneous security devices, and leaving the one solid, secure locking mechanism that is easily released by the gross motor skill of grabbing the gun by wrapping the hand around the gun and pulling it out of the holster.

These motions that require significant practice and skill are in contrast to the releasing mechanism of the present invention. Since the release tab is located directly over the trigger guard, the user merely needs to insert a hand where it would normally go if he/she were to release a handgun without such a security feature. This is the same physical motion as reaching in and grabbing the handgun by the trigger guard and removing it from the holster.

CONCLUSION

Accordingly, Applicant submits that this application is now in full condition for allowance, which action the applicant respectfully requests.

If the Examiner feels it would advance the application to allowance or final rejection, he is invited to telephone the undersigned at the number given below.

DATED This 28th day of August 2003.

Very respectfully,

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CERTIFICATE OF MAILING

I HEREBY CERTIFY that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Honorable Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450, on Aug. 28, 2005.

Shannon M. Wilson